IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3204 of 2007()

CC.248/2004 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE
IN CR NO.95/2004

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PETITIONER: ACCUSED

T.ASOKAN,
THACHAMBALATH,
REENA NIVAS, PANTHEERANKAVU P.O.,
KOZHIKODE-673 019.

BY ADV. SRI.T.G.RAJENDRAN
SRI.K.PRAVEEN KUMAR
SRI.CIBI THOMAS

RESPONDENTS: COMPLAINANT AND STATE

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1. SUB INSPECTOR OF POLICE,
NALLALAM POLICE STATION,
KOZHIKODE, PIN-673 027.

2. STATE,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/10/2007 ALONG WITH CRL.MC NO.3213/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.3204 & 3213 of 2007

Dated this the 18th day of October 2007

O R D E R

The petitioner faces indictment in two separate prosecutions both pending before the Judicial First Class Magistrate Court-V, Kozhikode. The cases had reached the stage of trial and the cases were listed for trial to 10/10/2007. The petitioner filed an application on 9/10/2007 obviously to secure an adjournment of the case listed for trial to 10/10/2007. Those applications were dismissed and the matter came up for trial in the list on 10/10/2007. The petitioner was not present. He was not represented by his counsel. Warrants of arrest were issued by the learned Magistrate against the petitioner in both cases. The petitioner finds such warrants of arrest chasing the petitioner.

2. According to the petitioner, he is absolutely innocent in both cases. His absence was not wilful or deliberate. There was a traffic block and that is the reason why he could not present before the court and take part in the trial. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Cases are dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007